



European Economic and Social Committee

REX/397
**Situation and operating
conditions of civil society
organisations in Turkey**

Brussels, 21 January 2015

OPINION

of the
European Economic and Social Committee
on
Situation and operating conditions of civil society organisations in Turkey

—————
Rapporteur: **Mr Metzler**
—————

At its plenary session on 26 and 27 February 2014, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on the

Situation and operating conditions of civil society organisations in Turkey.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 17 December 2014.

At its 504th plenary session, held on 21 and 22 January 2015 (meeting of 21 January), the European Economic and Social Committee adopted the following opinion by 205 votes with 2 abstentions:

*

* *

1. Conclusions and recommendations

- 1.1 The EESC encourages the Turkish government and administration to recognise civil society organisations as an important part of society and as a key player in Turkey's approximation process with EU values and *acquis*. The goal must be to create a society in which all social groups can have a vital part to play. Turkey needs to work as part of a joint effort to create the institutional and legislative framework for a pluralistic, participatory culture of mutual recognition and exchange.
- 1.2 As a basic prerequisite for the operation of civil society organisations, separation of powers under the rule of law in all areas must be upheld. Disproportionate state interference that unduly hinders their operation, as is the case with respect to special audits, is incompatible with this principle. Their access to redress must also be upheld. Determined efforts should be made to tackle corruption.
- 1.3 Particular attention should be paid in EU-Turkey dialogue to the effective implementation of basic rights and freedoms, including:
- freedom of expression without fear of individual discrimination or punishment;
 - media freedom that promotes diversity;
 - freedom of association and assembly, including and especially in conflictual debates and events;
 - women's rights;
 - trade union rights;
 - rights of minorities, including religious, cultural or sexual minorities;
 - consumer rights.

- 1.4 The separation of powers between the legislative, judiciary and executive, in particular a clear distinction and distinguishability between government action and administrative action – the latter of which must be backed by legislation – is a key prerequisite in ensuring that civil society organisations can operate. An independent judiciary in particular is the basis for any rule of law.
- 1.5 The EESC calls on the Council of the EU to work towards an opening of Chapter 23 (*Judiciary and Fundamental Rights*) and Chapter 24 (*Justice, Freedom, Security*) of the accession negotiations of Turkey to the EU in order to further accompany the process in Turkey.
- 1.6 At the same time, the principle of vertical separation of powers – e.g. local self-government – should also be upheld.
- 1.7 It would be an advantage if civil society organisations in Turkey were given access to information on government (decision-making) processes. To that end, hearings and consultations should be held regularly, in accordance with transparent rules, to allow knowledge gained from the work of civil society organisations and the interests of the social groups they represent to be reflected in political and administrative decisions. The Turkish government and administration are encouraged to engage civil society in a formal discussion process (Economic and Social Council), and to enshrine this in the constitution through the constitutional reform process.
- 1.8 Certain occupational groups – specifically the liberal professions – have in the EESC's view a particularly important role to play in making a free society under the rule of law a reality. Access to justice or to medical care can only be guaranteed by independent, qualified professionals in whom the public can have confidence based on a relationship of trust that is protected from outside interference or violence. Such trust-based services provided by lawyers, doctors, tax advisers and the like necessitate comprehensive safeguards on professional secrecy.
- 1.9 Accordingly, these professions need effective self-regulation, for example by professional organisations that ensure that they can fulfil their particular responsibilities towards society and individuals without political interference. The EESC's fact-finding trip identified breaches of this principle.
- 1.10 Social dialogue at national, branch and enterprise level is desirable in Turkey to allow employees and employers to become partners on equal terms. The goal should also be to

improve working conditions and occupational health and safety, which must translate into comprehensive rights for workers¹.

2. **Introduction and background**

- 2.1 The EESC visit to Istanbul and Ankara on 9 and 10 September 2013 revealed the working conditions of civil society organisations in Turkey to be sometimes palpably handicapped. In some cases, representatives and staff of such organisations had experienced severe personal restrictions, or even physical violence, from state institutions.
- 2.2 A follow-up visit to Ankara and Diyarbakır from 1 to 3 July 2014 was intended to investigate the current situation and development of conditions for civil society work in Turkey. Discussions were held with representatives of Turkish civil society to enquire as to whether civil society organisations had experienced any changes in their operating conditions since September 2013.
- 2.3 Those visits were in addition to the regular meetings of the EU-Turkey Joint Consultative Committee, which is monitoring the accession process of Turkey to the EU. EESC members were able to talk with civil society representatives who had not been proposed as discussion partners for the EU-Turkey Joint Consultative Committee.
- 2.4 These discussions with representatives of a wide variety of civil society organisations and of the government, including a local authority, provided an understanding of operating conditions for civil society organisations in Turkey and of any changes to those conditions. The aim was to use the individual experiences and interpretations of the various civil society stakeholders to paint an overall picture, depicting not the legal framework but rather the situation actually perceived in practice, which is crucially important for people's personal involvement in civil society organisations.
- 2.5 The assumption is that it will never be possible for all civil society stakeholders to be completely satisfied with their operating conditions, even in optimum circumstances. Instead, the goal must be to work continuously to optimise the environment for civil society involvement by balancing different interests, with a view to the ongoing development of a democratic, pluralistic society, as it is formed in all the EU Member States through an active process.
- 2.6 The EESC calls on both Turkey and the European Union to treat civil society dialogue as an absolute prerequisite for rapprochement between their societies and to do their utmost to

¹

See *Joint Report on Trade Union Rights Situation in Turkey* (co-rapporteurs: Ms Annie Van Wezel and Mr Rucan Isik), adopted during the 32nd meeting of the EU-Turkey Joint Consultative Committee (JCC), 7-8 November 2013 (CES6717-2013_00_00_TRA_TCD), <http://www.eesc.europa.eu/?i=portal.en.events-and-activities-32-eu-turkey-jcc-jointreport.30035>.

promote this. This process can only succeed if it is a mutual learning process within an ongoing, open dialogue.

3. Institutional and legislative framework for civil society organisations

3.1 Turkey has made definite progress in relation to the basic principles of separation of powers and independent self-government, although considerable further efforts are called for in applying these principles. Civil society organisations need to have a reliable legal framework as a basis for their operations. This means, among other things, that the applicable law must provide them with enough room for manoeuvre in their work, and must be also properly respected and applied by the state and administration. This legal certainty regarding operating conditions for civil society organisations and their staff must be transparent, and must be guaranteed.

3.2 The main focus of criticism was the constitutional reality, in terms of the ability to rely on public authorities respecting individual rights. Irrespective of whether specific administrative actions were technically lawful or contravened legal provisions, in some cases there was a lack of certainty and transparency regarding the basis or justification for government action, with the result that measures taken by the state were perceived as arbitrary.

3.3 The legal basis for a measure, the party responsible for initiating it, and the reason for a decision or measure should always be disclosed in a way that the party concerned can understand. Prompt access to legal redress must also be guaranteed in practice, and properly documented.

4. Separation of powers, the rule of law and individual freedom of action

4.1 All staff of civil society organisations are also responsible for their actions, as is every other citizen. They must not be subjected to unjust personal disadvantages or restrictions because of their involvement. In particular, their private lives and those of their families deserve full protection.

4.2 The EESC is aware that representatives of civil society organisations have in a number of cases been threatened verbally and through legal prosecution, sometimes personally, and have faced unjustified restrictions on their civil society activities. Some of the restrictions described had been imposed in the context of the Gezi Park protests in May and June 2013 and of the associated legal proceedings.

4.3 The EESC delegation was deeply shocked to hear that, following the Gezi Park protests, doctors had been forbidden to treat the injured and that patients' files had been demanded for investigative purposes. Some doctors were also allegedly investigated for crimes such as disobeying government regulations because they failed to comply with instructions from the public authorities. Confidential, independent medical care is a human right, irrespective of

political events and of the person, and must be provided in accordance with the Hippocratic oath. In medical care as in legal representation, respect by all parties involved for professional secrecy is a cornerstone of trust-based activities, and a characteristic of the rule of law. The importance of compliance with these principles by all officials extends beyond individual cases to the overall functioning of democracy and the rule of law, and to public confidence that their rights will be respected.

- 4.4 The EESC advises the Turkish authorities to try and regain the lost trust of civil society organisations by ensuring that decisions taken at all levels of government are transparent and comply with the rule of law, and that the decisions taken by legislative, judicial and executive bodies are totally independent.
- 4.5 Civil society involvement in the democratic decision-making process could be supported within the EU accession process by opening Chapters 23 (*Judiciary and Fundamental Rights*) and 24 (*Justice, Freedom, Security*) and by pro-actively implementing the basic rights and freedoms that they contain.
- 4.6 The EESC underlines that the independence of the judiciary including judges is a fundamental element of a free civil society in a democracy. In particular, judges must be able to administer justice independently and in accordance with the law, without indirect instructions from other bodies, without having pressure put on them individually, and without being threatened with personal disadvantages.

5. **Transparency and communication for civil society involvement**

- 5.1 The EESC would welcome the government and administration in Turkey making greater use of the potential of civil society organisations in drafting and communicating policy decisions, by consulting them regularly before taking decisions and by providing them with access to information on government decision-making processes with a view to dialogue. Many Turkish civil society organisations complained of a lack of opportunities to access government decision-making processes. In the EU Member States, representatives of civil society organisations are consulted on a regular basis before making decisions, so as to incorporate the collective opinions and interests of members of these organisations into the process and improve the quality and social viability of the decisions made. By consulting the social groups involved or affected, as an established part of the legislative and regulatory process, public authorities can first of all anticipate possible areas for improvement and secondly make use of the organisations concerned to pass the decision on within their spheres of influence.
- 5.2 The Turkish government and administration are encouraged to engage civil society, including minorities, in a formal, structured political opinion-forming process by setting up an Economic and Social Council, and to enshrine this in the constitution through the constitutional reform process.

- 5.3 Representatives of civil society organisations perceived themselves as very restricted in their communication with members and the public at the time of the fact-finding trip. They said that it was difficult – or even virtually impossible – to get access to the press, due to the sometimes oligopolistic structure of the media and their often fundamentally one-sided editorial stances, and reported significant economic dependencies and direct influence on the media. They also said that this caused restrictions both on reporting on the work of civil society organisations and on opportunities for open political debates in which positions critical of the government could be expressed.
- 5.4 The EESC considers that there is still more to be done to establish a free and varied media landscape. Repressive measures, including imprisonment, targeting journalists for critical reporting must end at once.
- 5.5 The EESC is critical of the temporary block on the microblogging service Twitter. The Turkish government should support freedom of opinion, including on social media, and this should be permitted as an element of the lively exchange of views as part of a democracy.

6. **Experiences of protection of minorities as a touchstone for the functioning of democracy**

- 6.1 Protection of social minorities should be taken seriously, as a touchstone for the functioning of democracy. Discrimination by public authorities should be systematically abolished; and discrimination by third parties should be legally resolved and prevented by means of public education campaigns. Civil society involvement in democratic decision-making processes could be facilitated within the EU accession process by opening Chapters 23 (*Judiciary and Fundamentals Rights*) and 24 (*Justice, Freedom, Security*) and implementing the basic rights and freedoms therein without delay.
- 6.2 Even though women cannot reasonably be described as a minority, the EESC asks Turkey to use instruments for the protection of minorities to promote gender equality. To this end, Turkey should implement the UN Convention on Women's Rights. The advancement of women and girls in all areas of society – particularly in terms of access to the labour market, including the civil service – should be a policy objective for Turkey, and one that it pursues actively. The Turkish state should support mothers in difficult circumstances by providing independent specialist advice, so as to reduce the number of illegal abortions. Tried-and-tested forms of cooperation between women's rights organisations and the Turkish state should be continued and consolidated.
- 6.3 Turkey should continue to work to integrate the Kurdish minority as part of Turkish society and to promote the Kurdish culture and language.
- 6.4 The EESC asks Turkey to protect people with different sexual orientations or gender identities from discrimination and to integrate them in society.

6.5 The EESC has been told that Turkey's constitutional principle of state secularism is in some cases being breached, with, in particular, information on religion being required in official identity documents. Members of religious minorities, including Alevites, apparently suffer disadvantages in community life and in terms of job prospects. Turkey is asked to make further efforts to integrate religious minorities into society without discrimination.

7. **Social dialogue as a tool and expression of democracy in the workplace**

7.1 The EESC has identified shortcomings in the implementation of the systematic inclusion of employees in relevant decisions. Trade unions report restrictions on the freedom of association and assembly, which are fundamental conditions for membership of trade unions. In addition, the EESC has been told that trade unionists, in particular members of works councils, have been personally put under pressure in contravention of freedom of association.

7.2 The EESC noted with consternation that there were shortcomings in the design and implementation of occupational safety measures that had resulted in accidents prior to the fact-finding trip, such as the mine accident in Soma in May 2014. The Committee calls on the Turkish government and administration to work with employees to develop precautions to protect workers' lives and safety and to ensure that such measures are implemented across the board.

8. **Local self-government as a tool for participatory democracy**

8.1 In Turkey, the principle of local self-government in some places remains a mutual learning process in which the roles and powers of the different authorities need to be defined and fleshed out incrementally. The EESC notes that the vertical separation of powers is also used in Turkey as a tool for developing a web of connections between the state and social groups, and that democratic processes should be anchored more firmly at regional and local level. This could be another opportunity to get civil society organisations with direct local connections involved in political decision-making processes, for example as informed citizens and independent advisers.

9. **General social preconditions for civil society organisations**

9.1 The state and media could do even more to promote public understanding of the diversity of groups within society and of the need for civil society organisations and representation of interests, in order for minorities to be recognised as a legitimate and enriching part of Turkish society.

9.2 In order for civil society organisations to develop and operate professionally, they need a social structure that is pluralistic and participatory in practice. This depends not only on having the institutional mechanisms to enable civil society organisations to operate under law,

but also on maintaining the practical framework conditions for civil society involvement. As well as individual commitment to the interests and values being pursued, voluntary work depends on the recognition people get for their involvement.

- 9.3 Some discussions with civil society stakeholders revealed that they perceived their work as an unequal fight against authority, rather than as the legitimate representation of interests. The use in some cases of a rhetoric of opposition, distrust and resistance to social or government forces was troubling. This attitude is not conducive to mutual understanding or to achieving substantive progress through mutual change, and runs the risk of creating rifts between groups within Turkish society.
- 9.4 To overcome a climate of mistrust and fear, the authorities and civil society organisations are invited to enter into dialogue and trilogue with their European partner organisations in order to promote a climate of mutual respect and trust.

Brussels, 21 January 2015

The President
of the
European Economic and social Committee

Henri Malosse
